

REMARKS

Reconsideration of this Application is respectfully requested. Claims 1-4, 6-7, 21-31 and 35-45 are pending in the application, with claims 1, 21 and 29 being the independent claims. Based on the following Remarks, the Applicants respectfully request that the Examiner reconsider and withdraw all outstanding objections and rejections.

Response to the Restriction Requirement

In the Restriction Requirement, the Examiner required that the Applicants elect between the following groups of the claimed invention:

- I. Claims 1-4, 6, 7, 21-28, 38 and 39, drawn to a system and method for ensuring travel privileges through biometric authentication, classified in class 705, subclass 66; and
- II. Claims 29-31, 34-37, and 40-42, drawn to a method for receiving requests for travel permission information and authenticating users without using biometrics, classified in class 705, subclass 76.

The Applicants elect, with traverse, Group I, which corresponds to claims 1-4, 6, 7, 21-28, 38 and 39. The Examiner alleges that Group I contains biometric authentication, while Group II explicitly disclaims biometric authentication. However, Group II is consistent with and not separate from Group I because Groups I and II are both drawn to authenticating users via biometrics. Group II is not disclaiming biometric authentication because Group II is drawn to “receiving a request...including an authentication of the biometric information of the user *performed at the personal identification device*, the authentication excluding biometric information” as recited in independent claim 29 as amended. Emphasis added. In other words, an authentication that the user has been biometrically authenticated is received where the personal identification device has authenticated the biometric information of the user. The authentication received from the personal identification device does not include the biometric information of the user. For example, the received authentication, may include,

for example, an indication that the user has been biometrically authenticated to the personal identification device via the user's fingerprint without receiving the actual fingerprint of the user.

That said, the Examiner stated that Group II is an obvious difference of Group I and as a result of this obviousness, "restriction is not proper at this time, [for] the patentability of Group I falls with Group II." If Groups I and II are obvious variants, then the Applicants would presumably not need to elect a group because the Restriction Requirement is improper. Furthermore, the Office Action also substantially addressed both Group I and Group II with respect to the cited art. Accordingly, the Applicants have not canceled claims 29-31, 34-37, and 40-42 corresponding to Group II (the non-elected Group).

Claim Objections

Claims 6, 7 and 38 stand objected to for usage of the functional language "configured to." The Examiner requests changing the language from "configured to" to "programmed to." Claims 6 and 38 have been amended to change the language from "configured to" to "programmed to." The Applicants understand this change is stylistic and does not relate to patentability. Claim 7 does not contain the language "configured to." Accordingly, the Applicants request that these objections be withdrawn.

Claim 7 stands objected to as it contains the phrase "prior the travel privilege certificate." Specifically, the language does not include a verb. Claim 7 has been amended to recite "prior to transmitting the travel privilege certificate," which includes a verb. Accordingly, the Applicants request that this objection be withdrawn.

Claim 22 stands objected to as it contains the phrase "before the authenticating the biometric input from the user." Claim 22 has been amended to recite "before authenticating the biometric input from the user." Accordingly, the Applicants request that this objection be withdrawn.

Claims 30 and 31 stand objected to as they contain the phrase "before the sending the travel." Claim 30 has been amended to delete the phrase. Claim 31 has been

amended to recite “before sending the travel.” Accordingly, the Applicants request that these objections be withdrawn.

Claims 34, 41 and 42 stand objected to under 37 C.F.R. 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. The Examiner alleges that independent claim 29 does not include biometric information yet claims 34, 41 and 42 further limit independent claim 29 as if it did include biometric data. The objection of claim 34 is moot in light of the cancellation of this claim.

Claim 41 as amended recites “receiving from the personal identification device the travel permission information associated with the user at least one time when the user is operating a vehicle, the travel permission information excluding biometric information.” As discussed above in connection with the Restriction Requirement, an authentication of biometric information does not include biometric information. For example, the authentication may include an indication, for example, that the user has been biometrically authenticated via the personal identification device. Claim 41 further limits independent claim 29 because the personal identification device can send the travel permission information to the processor-readable medium. The travel permission information also does not include biometric information. Accordingly, the Applicants request that this objection of claim 41 be withdrawn.

Claim 42 recites “receiving the travel permission information from a travel-governing authority associated with enrollment of the biometric information to the personal identification device.” Claim 42 further limits independent claim 29 because the travel-governing authority that enrolled biometric information (e.g., a fingerprint) to the personal identification device can send travel permission information to the processor-readable medium. Accordingly, the Applicants request that this objection of claim 42 be withdrawn.

Rejection Under 35 U.S.C. § 112

Claims 29-31, 34-37 and 40-42 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Specifically, the Examiner asserts that independent claim 29 is unclear to a person having ordinary skill in the art as to how authentication of biometric information could exclude biometric information from the authentication process. As described above in connection with the Restriction Requirement, an authentication that the user has been biometrically authenticated is received where the personal identification device has authenticated the biometric information of the user. The authentication received from the personal identification device does not include biometric information of the user. Accordingly, the Applicants request that the rejection of claims 29-31, 34-37 and 40-42 under 35 U.S.C. § 112, second paragraph, be withdrawn.

The Claims are Patentable over Sehr

Claims 1-4, 6, 7, 21-31, and 34-42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application No. 6,085,976 to Sehr (“*Sehr*”). The claims are patentable over *Sehr* for the reasons below.

Unlike independent claim 1, which as amended recites “at least one personal identification device including a means for authenticating at the personal identification device the identified individual based on a biometric,” *Sehr* fails to disclose or suggest such a personal identification device. More particularly, *Sehr* is entirely silent with respect to authenticating a biometric input at a personal identification device. *Sehr* merely discloses a biometric box (13) and biometric modules (111.2) and (112.2) separate from an identification device that captures biometric input and compares the biometric input to the biometric characteristic stored on the passenger card. See Abstract, lines 52-61, col. 6 and lines 4-12, col. 13. In sum, the comparison of the biometric input and the passenger card is performed at the biometric box and biometric modules, and not at the passenger card (assuming the Examiner is viewing the passenger card as a personal

identification device). Thus, independent claim 1, and its dependent claims, are patentable over *Sehr*.

Unlike independent claim 21, which recites “authenticating, at a personal identification device, a biometric input from a user based on a biometric template stored at the personal identification device and associated with the user,” *Sehr* fails to disclose or suggest such an authentication. As discussed above in connection with independent claim 1, *Sehr* is entirely silent with respect to a personal identification device authenticating biometric information of the user where the authentication is performed at the personal identification device. Thus, independent claim 21 and its dependent claims are patentable over *Sehr*.

Unlike independent claim 29, which as amended recites “receiving a request for a travel permission information from a personal identification device associated with a user, the request including an authentication of the biometric information of the user performed at the personal identification device, the authentication excluding biometric information,” *Sehr* fails to disclose or suggest such a method. As discussed above in connection with independent claim 1, *Sehr* is entirely silent with respect to a personal identification device authenticating biometric information of the user where the authentication is performed at the personal identification device. In addition, as discussed above in connection with the Restriction Requirement, the authentication received from the personal identification device does not include biometric information authenticated at the personal identification device unlike *Sehr* where the biometric information is received by a device other than the personal identification device (e.g., the biometric box). Thus, independent claim 29 and its dependent claims are patentable over *Sehr*. The rejection of claim 34 is moot in light of the cancellation of this claim.

The Claims are Patentable over Sehr in view of “Practical Traveler; Airline Tickets as Presents”

Claims 1-4, 6, 7, 21-31, and 34-42 stand rejected under 35 U.S.C. § 103(a) as being anticipated by *Sehr* in view of “Practical Traveler; Airline Tickets as Presents”

(“*Practical Traveler*”). The claims are patentable over *Sehr* in view of *Practical Traveler* for the following reasons. The claims are patentable over *Sehr* for at least the reasons discussed above. *Practical Traveler* fails to remedy the deficiencies of *Sehr*. Particularly, *Practical Traveler* is silent with respect to a personal identification device authenticating biometric input at the personal identification device. Thus, claims 1-4, 6, 7, 21-31, and 34-42 are patentable over *Sehr* in view of *Practical Traveler*.

New Claims 43-45 are patentable

It is respectfully submitted that the dependent claims 43-45 are patentable over the cited references at least because they depend from independent claims 21 or 29, which the Applicants submit are patentable as discussed above. More over, none of the references disclose or suggest “inhibiting output of a signal to a kill switch such that the kill switch disables operation of the vehicle when the biometric input of the operator is not authentic” as recited in claim 43, “authenticating, at the personal identification device, the biometric input of the operator of the vehicle at least one time when the vehicle is in operation” as recited in claim 44, and “not sending the travel permission information associated with the operator when the travel permission information is not received from the personal identification device such that a kill switch disables operation of the vehicle” as recited in claim 45.

Conclusion


All of the stated grounds of objection and rejection have been properly traversed or rendered moot. The Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding objections and rejections. The Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that further personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this application is respectfully requested.

Dated: January 26, 2009

Cooley Godward Kronish LLP
ATTN: Patent Group
777 6th Street, N.W., Suite 1100
Washington, DC 20001
Tel: (703) 456-8000
Fax: (202) 842-7899

Respectfully submitted,
COOLEY GODWARD KRONISH LLP

By: 

Christopher R. Hutter
Reg. No. 41,087